

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

STUDENTS FOR JUSTICE IN
PALESTINE AT PITT,
Plaintiff

vs.

Civil Action No. 25-524

UNIVERSITY OF PITTSBURGH,
et al.,
Defendants.

- - -

Transcript of Video Status Conference on May 27, 2025, in
the United States District Court, 700 Grant Street,
Pittsburgh, PA 15219, before Honorable J. Nicholas Ranjan,
United States District Judge.

APPEARANCES:

For the Plaintiff:	Witold J. Walczak, Esq. Kirsten Marie Hanlon, Esq. Ali N. Szemanski, Esq. Solomon Furious Worlds, Esq. Jules Lobel, Esq.
For the Defendants:	Alexander Robert Bilus, Esq. Joshua W.B. Richards, Esq. Peter Nanov, Esq.
Court Reporter:	Veronica R. Trettel, RMR, CRR U.S. Courthouse 700 Grant Street Suite 6260 Pittsburgh, Pennsylvania 15219

Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

P-R-O-C-E-E-D-I-N-G-S

Tuesday Afternoon, May 27, 2025

THE DEPUTY CLERK: Good afternoon. The United States District Court for the Western District of Pennsylvania is now in session. The Honorable J. Nicholas Ranjan presiding.

The matter now before the Court is Students for Justice in Palestine at Pitt versus University of Pittsburgh, et al., case number 25cv524.

THE COURT: All right. Good afternoon, everyone. We are here for a status conference in this case. Why don't we start by having counsel enter their appearances. We'll begin with counsel for the plaintiff.

MR. WALCZAK: Good afternoon, Judge. Vic Walczak, ACLU Pennsylvania on behalf of plaintiffs and I'll pass it over to Mr. Lobel.

THE COURT: I think you are muted.

MR. LOBEL: Jules Lobel, counsel for the plaintiffs. Counsel for ACLU also.

THE COURT: All right. Great. Good afternoon.

MR. WORLDS: Good afternoon, Your Honor. This is Solomon Furious Worlds, ACLU staff attorney, counsel for plaintiffs, and I'll pass it to Ali.

MS. SZEMANSKI: Good afternoon, Your Honor. Ali Szemanski, ACLU of Pennsylvania on behalf of plaintiff.

THE COURT: All right. Great.

1 MS. HANLON: Kristen Hanlon, legal fellow at the ACLU
2 of Pennsylvania on behalf of plaintiff, and we have our legal
3 intern Aarti on screen with us as well.

4 THE COURT: Okay. All right. Very good. Welcome,
5 everyone. From the defense side?

6 MR. BILUS: Good afternoon, Your Honor. This is
7 Sandy Bilus from Saul Ewing. I'm joined by my colleagues Josh
8 Richards and Pete Nanov.

9 THE COURT: All right. Good afternoon to you.

10 So the purpose of this status conference is last week
11 I was alerted to several discovery disputes between the
12 parties. Also some, I suppose, scheduling issues or
13 scheduling disputes that might bear or have some relation to
14 the discovery disputes as well.

15 When I received the email from counsel, I had my
16 courtroom deputy schedule this conference, and I believe he
17 communicated a message that my sense was that I -- and I think
18 we're probably going to have to push off the June 17th hearing
19 in light of the discovery disputes that were brought to my
20 attention. It's not a final decision on that, but it seemed
21 like in light of those disputes, the depositions scheduled for
22 this week probably weren't going to happen, which would have a
23 ripple effect on the schedule.

24 So part of today's conference -- I certainly want to
25 hear from the parties as to any important information that

1 anyone wishes to share, but I think really I would like to
2 talk maybe about scheduling out, how to resolve the pending
3 disputes, and also what the date for the preliminary
4 injunction hearing, what makes sense in terms of how a date
5 for rescheduling that or if the parties believe that we can
6 keep the June 17th hearing date intact.

7 So maybe we'll start with the plaintiff.

8 Mr. Walczak, any thoughts as to any of the issues raised and
9 also scheduling ideas or proposals?

10 MR. WALCZAK: Yes. Thank you, Your Honor. We think
11 the arguments raised by defendants on Mr. Label's email, and
12 on them even questioning the existence of a first amendment
13 privilege are pretty weak, but they have raised them
14 nonetheless and they need to be addressed, and, you know,
15 recognize that that's not going to occur immediately and
16 certainly not before Wednesday when -- well, Wednesday is now
17 tomorrow, when the depositions were supposed to take place.

18 We're still living in the world where our clients are
19 being irreparably harmed. In affect, they have been hamstrung
20 since January.

21 I should advise Your Honor that in light of the
22 mediation following through on Wednesday, Pitt did hold a
23 second disciplinary hearing on Friday, and we expect a
24 decision within about 10 days, although my understanding is
25 that is typically how quickly they issue a decision or within

1 a couple of weeks. The first time around where there was no
2 decision for six weeks was something unusual.

3 So we are expecting that that's going to, you know,
4 add some facts to this case, but the bottom line is we'd still
5 like to try to get this hearing in as soon as possible.

6 I mean, if there's any way that we can resolve those
7 disputes quickly, and we're certainly prepared to file motions
8 and briefs quickly for protective orders, or if there's -- if
9 the court has any availability before the 4th of July, that
10 would be great.

11 Our own internal schedules are much more complicated
12 for July, and all of that said, leaves aside an issue that was
13 raised by the defendants that plaintiffs don't see as a
14 particular issue, and that is whether or not the two
15 co-presidents for SJP from last, from the past year, one of
16 whom will continue this upcoming year, are out of the country
17 and will be until August, and whether or not they need to be
18 here for their depositions and for the court hearing, they
19 certainly can be available remotely for both of those, but,
20 you know, obviously it's up to the court how important their
21 in-person attendance at one or both of those is. So that's I
22 think -- I don't know if Mr. Lobel has anything he wants to
23 add to that.

24 THE COURT: Okay. Mr. Lobel.

25 MR. LOBEL: No, I don't have anything at this time.

1 I might want to say something about the defendant's position
2 on my emails, but that's later on.

3 THE COURT: Okay. Mr. Bilus, on your end?

4 MR. BILUS: Yes, Your Honor. I agree. I think we
5 need briefing on the issue involving Professor Lobel's emails
6 and on the first amendment privilege that's been asserted.
7 We're happy to move that briefing along as quickly as you can
8 handle it.

9 But setting that aside, I think plaintiff's counsel
10 is correct in pointing out that we are interested in taking
11 the depositions and inhabiting the two co-presidents of the
12 plaintiff's organization appear live to testify at the
13 hearing. We think we are entitled to cross-examine them live
14 in person.

15 And so, you know, it was their choice to bring this
16 lawsuit. It's unfortunate that the hearing date that we all
17 picked apparently didn't work for them. They decided to leave
18 the country, but if they are both back the beginning of
19 August, I would suggest that that's when we have the hearing
20 and move forward.

21 THE COURT: Can I ask you all this. Where we left it
22 last time at our last status conference, I think the thought
23 was no one was entirely sure whether or not the hearing, in
24 parentheses, would be an evidentiary hearing or a hearing, in
25 quotation marks, would be an evidentiary hearing or, rather,

1 attorney argument.

2 Is the defense's position that in the event it does
3 turn into an evidentiary hearing, you would want the
4 principals in person, is that it?

5 MR. BILUS: Yes, Your Honor.

6 THE COURT: Okay. I will say this. I have taken --
7 so with respect to depositions with people being out of the
8 country and this being on a short fuse, typically what I would
9 do in most cases where we talk about expedited discovery is to
10 just authorize Zoom or virtual depositions.

11 So to me, the deposition thing is not an issue here.
12 I would have the plaintiff's principals be available for
13 deposition remotely.

14 If it does turn out that there needs to be in-person
15 testimony at an evidentiary hearing or, rather, testimony at
16 an evidentiary hearing, my preference is for that testimony to
17 be live as opposed to being remote. I think it's more
18 beneficial for me to have the individual witnesses there, and
19 I don't want there to be any technical issues as well.

20 But what, I'm sort of thinking out loud, one thought
21 would be we schedule -- we reschedule the hearing for maybe an
22 earlier date than August, with the understanding that there
23 might not be a need for those individuals to testify if we get
24 to the hearing, and then there is a need for those individuals
25 to testify, maybe we schedule another date for that testimony

1 to come in when those individuals are back in the country. We
2 would delay things a little bit, but it would also not mean
3 that I would have to push off the entire thing until August,
4 and it turns out that we get to the hearing and it is just
5 purely legal argument.

6 Let me pause there as to that as an option. Any
7 reactions to that? And I would say this. One of the reasons
8 I raise that is my August is a mess. We're not -- if I'm
9 looking at a hearing in August, it would be August 25th week.
10 So we're talking about late August, and I could do dates in
11 July. I can move things around to do some dates in July. I
12 have a trial, a criminal trial, that if it ends up cancelling,
13 that would open also the June 30th week, but August -- if
14 we're looking at August, it's going to be later in August,
15 which I prefer not to wait that long.

16 MR. BILUS: Your Honor -- sorry to jump in, Vic. Do
17 you want to go first?

18 MR. WALCZAK: I was going to say that I think it
19 makes sense, what you proposed, to have a tentative date
20 scheduled, and then if we get to that date and decide that no
21 live testimony is needed, we can go forward with it, and
22 otherwise, we can talk about finding a new date.

23 THE COURT: Okay. Thank you.

24 MR. WALCZAK: So I think anything before the 4th of
25 July works. I mean, I am actually out of the country. So

1 that's on me, and if that's the only time the court can do it,
2 we may have to work around that, but that's the biggest trip
3 my wife and I have ever planned, and I'll be out from the 7th
4 to the 23rd of July.

5 THE COURT: It's just tough for me to schedule. So I
6 can't do the June 23rd week at all. The June 30th week, I
7 have a criminal trial scheduled that I can't move, but again,
8 if that individual pleads guilty, then that will open up all
9 of those days.

10 I can certainly try to -- we can try to maybe double-
11 book during that June 30th week. How does everybody look,
12 say, July 2nd?

13 MR. BILUS: I'm open that day.

14 MR. WALCZAK: We would be open as well. I just --
15 just noting that we'll need to -- that we would need to have
16 enough time to brief and for Your Honor to decide the
17 discovery disputes to then enable the depositions before that.

18 So we're probably still looking at a similarly tight
19 schedule to the one we have now, except pushing it back by one
20 or two weeks.

21 MR. LOBEL: Let me ask is the discovery dispute as to
22 my emails critical for the depositions?

23 MR. BILUS: So we don't know what's in your emails.
24 I don't know that we can answer that. We have segregated
25 them, like we said, have not reviewed them. But so I think it

1 possibly could be critical to the depositions, yes.

2 THE COURT: I do wonder, though, Mr. Walczak makes a
3 good point. I mean, even if say we do July 2nd, some of these
4 issues are discovery issues here that have been raised are a
5 little bit thorny in the sense I'm going to need full briefing
6 and a proper record here, and it's already May 27th. Hold on
7 one second. I'm just looking at the calendar.

8 If everything is fully briefed by June 10th and I can
9 get a decision out that week or the week after, then I suppose
10 there would be enough time for the depositions and the
11 prehearing briefs, that would give everybody about 10 days to
12 two weeks prior to July 2nd. How does that schedule look for
13 everybody here?

14 MR. WALCZAK: Your Honor, I don't know, maybe it's
15 just because we're coming out of an Alien Enemies Act
16 litigation and the election. I mean, that -- it sounds like a
17 luxury to have until June the 10th. We were thinking we would
18 file our motion probably by the end of the week, if not
19 sooner.

20 We have all been doing lightning-pace briefing on so
21 many cases, it's really become almost the standard. My staff
22 is not giving me the evil eye here, but they might be.

23 THE COURT: That's great for me. I mean, more time
24 for me I think would be better.

25 Mr. Bilus, on your end, could you -- I'm talking

1 about sort of the -- I'm not sure how we tee this up, I
2 suppose whether it be through motions for a protective order,
3 motions to compel, but I would need, obviously, full briefing
4 by both sides and then enough time to decide the issue.

5 MR. BILUS: Just to make sure I understand, Your
6 Honor, are we trying to get this all done in time to then take
7 depositions and have a hearing July 2nd? Is that -- I thought
8 Vic was just saying that that seemed too tight. No? Maybe I
9 misheard.

10 THE COURT: My understanding would be that be would
11 the goal to get everything done, and then we would proceed on
12 July 2nd, but also proceed as if, you know, the two principals
13 would not be needed, and if it turns out they are needed,
14 we'll have to figure out another way to kind of get their
15 testimony in.

16 MR. BILUS: I mean, the only thing that I know is on
17 my schedule and on Mr. Richards' schedule is the week of June
18 23rd, we're both unavailable for most of that week.

19 But before that, unless he jumps in and says
20 otherwise, I think we could get the briefing done. We just
21 have to make sure we fit the depositions in around those,
22 avoiding those dates.

23 THE COURT: Okay.

24 MR. WALCZAK: If we filed this Friday, so this Friday
25 is the 30th, and I don't know how much time the defendants

1 would want, they could file before the 6th, that would give
2 Your Honor the following week. We could schedule those
3 depositions and -- I assume we could schedule -- so we could
4 do them the week of the 16th, if that works for defendants and
5 for the Court.

6 MR. RICHARDS: I'll be traveling that week, Vic, but
7 if we can do all of these depositions by Zoom, since we are
8 going to be doing yours by Zoom, then that won't be an
9 impediment.

10 MR. WALCZAK: I'd prefer not to be deposed, Josh, but
11 that's fine.

12 THE COURT: Okay. So why don't we plan on that then.
13 That makes sense. So why don't we have -- and I guess another
14 question would be I don't want people maybe arguing past each
15 other.

16 How do counsel envision both -- I suppose all of
17 these issues kind of playing out in terms of who is moving on
18 what?

19 MR. BILUS: We hadn't talked about who would be the
20 movant. I think Vic offered to be that and said he could get
21 it done by Friday. If that works, we're happy to be the
22 responding.

23 MR. WALCZAK: What about if we split them?

24 MR. BILUS: Sure, whatever makes sense to the court.

25 THE COURT: Okay. That's fine by me. I'm just

1 trying to think on the motion -- on the associational
2 prejudice, it probably makes sense for the plaintiff to move
3 first on that just because of the burden shifting, and on the
4 privilege one, I'm not sure it really matters or the
5 attorney-client privilege, I want to make sure if it matters
6 who moves on that. So if the defense wants to move on that.

7 Although, I suppose it would be the -- I'm trying to
8 think who bears the burden on that one also in terms of
9 invoking attorney-client privilege in this scenario.

10 MR. WALCZAK: Plaintiffs certainly have it on the
11 first amendment privilege. That's clear. And we'll have to
12 submit declarations along with our briefing.

13 THE COURT: Okay.

14 MR. WALCZAK: Ali was doing the research on the -- do
15 you have a sense of -- do we also have the burden on that,
16 Ali?

17 MS. SZEMANSKI: Thank you. If you assert the
18 privilege, then you would bear the burden. So I think it
19 would be on both.

20 THE COURT: Okay. It might make sense then for
21 plaintiff -- that's my sense, too, for the plaintiff to move
22 on both those.

23 Are those related to two primary motions? I know
24 there were some other issues raised in the emails as to the
25 deficiencies of certain productions which seem -- I'm not sure

1 those or rather that counsel had envisioned those ripening
2 into formal motions.

3 To me, the big ones, the big legal issues are going
4 to be on the two privilege issues. I suppose you all could
5 tee up the other discovery issues while you're at it if you
6 think you need a ruling on any of those.

7 MR. BILUS: I'll say on the defendant's production,
8 we did not intentionally withhold any responsive
9 non-privileged documents.

10 We're going to go back to make sure we didn't miss
11 anything, and I think there were a couple of documents that
12 may not have come through in the production because of a
13 technical issue. But we're going to produce anything we have
14 that's responsive and non-privileged.

15 On the plaintiff's side, there were two issues that
16 we saw. One was it sounds like there have been documents that
17 have been deleted and we don't know a lot about the
18 circumstances there.

19 And then also, the plaintiff has objected to some of
20 our discovery on the basis that the plaintiff's knowledge is
21 at issue -- whether or not it's relevant basically.

22 I don't know, Vic, if you have -- we don't know
23 enough about the deletion issue to really yet to deal with
24 that I think, but I think we're going to have to deal with it
25 soon.

1 MR. WALCZAK: Let me take the relevance issue first.
2 So I mean, it probably makes sense for us to fold that in.
3 And there's kind of two issues there, Your Honor.

4 One is that to analyze whether or not defendants
5 violated plaintiffs' first amendment rights, it's just not
6 relevant what plaintiffs may have known. It's really about
7 the facts that were available to Pitt in making their
8 decisions.

9 And the other issue is we've said that Pitt's
10 policies are vague, and defendants say they need to question
11 plaintiffs about their understanding of the policies to see if
12 they're vague, but our understanding is that from a first
13 amendment perspective whether or not the policies are
14 unconstitutionally vague is an objective standard not a
15 subjective standard. So those are not relevant.

16 But all of those get mixed in with the first
17 amendment privilege because to the extent that we sustain our
18 burden on saying that there's a first amendment privilege,
19 that doesn't mean that defendants absolutely cannot access
20 those emails. It creates a heightened relevance test. So
21 kind of relevance, plus need there. So I think, you know, it
22 probably makes sense for us to fold all of those relevance
23 issues into one motion.

24 And on the Signal chats, I mean, I need to check with
25 the Secretary of Defense, but I'm pretty sure that those are

1 gone, and we're talking about the critical time periods here
2 were in the fall and winter, long before the students had any
3 expectation that they were going to be in litigation or that
4 there were going to be any difficulties, and to somehow create
5 a system that even in situations where there's the remotest
6 chance of litigation, you have to set your Signal settings to
7 never delete would completely defeat the purpose of the Signal
8 chat. And I don't know technologically whether there's a way
9 to retrieve deleted emails. The last time we looked, I think
10 it was about a year ago, and at that point, there was not a
11 way to retrieve deleted Signal chats, which is why I think the
12 Department of Defense is probably using them now.

13 THE COURT: Okay. Well, why don't we do this. Maybe
14 not to overcomplicate things, why don't the plaintiffs file a
15 motion and supporting brief on May 30th, so this Friday,
16 raising whatever issues -- I think most of them, it sounds
17 like, are on the plaintiffs' side at this point, and then just
18 make a modification -- or I don't know if the defense can
19 maybe file a response, say, June 4th, so it would be
20 Wednesday.

21 And then if to the extent there are any kind of
22 affirmative disputes that the defense wants to raise, you can
23 do a combined response/motion, and then I'd give both sides an
24 opportunity on June 6th to file any optional replies if
25 there's any clean-up from whatever is filed, and then I'll be

1 fully briefed June 6th. I'll try to decide the issue
2 hopefully the next -- by the following week here.

3 That will give everybody enough time to make the
4 appropriate productions and take depositions hopefully during
5 that June 16th week, and then we can be ready to go -- I think
6 I said July 2nd.

7 If counsel is okay with this, I would prefer July
8 3rd, and that's because we might be able to get that criminal
9 trial done in three days and not totally mess up the schedule
10 if that thing goes forward.

11 Is July 3rd also acceptable to counsel here? At a
12 minimum, maybe the jury is out by the 3rd and I'll have some
13 breathing room there.

14 MR. WALCZAK: That works for plaintiffs.

15 THE COURT: Okay. Thanks.

16 For the defense, July 3rd?

17 MR. BILUS: That works for me, Your Honor.

18 Josh?

19 MR. RICHARDS: Yes.

20 THE COURT: Okay. Great. Before we sort of log off
21 here, I was thinking about the attorney-client privilege issue
22 a little bit, and I did have a similar question to what
23 Mr. Lobel raised, just thinking about whether or not any of
24 those documents -- you know, whether or not there's a way to
25 punt that issue, I suppose, and whether I know those documents

1 are really going to be all that critical for the preliminary
2 injunction hearing, and I understand that it's tough to gauge
3 that at this point because the defense doesn't know what is in
4 those documents.

5 I mean, I don't know if there's a way in which there
6 could be some kind of 502 non-waiver agreement or some type of
7 agreement whereby there could be a review by -- you know,
8 whether it's Mr. Lobel or somebody else as to those documents
9 so that we can maybe short-circuit the attorney-client
10 privilege issue at all.

11 I'm just kind of thinking out loud, but I'm not
12 sure -- it's going to be maybe a lot of effort and work, and
13 at the end of the day, I'm not sure how much of it will matter
14 here for purposes of the preliminary injunction hearing.

15 Any thoughts or reactions to that?

16 MR. LOBEL: Yes, Your Honor, I have a few thoughts.
17 The first is almost all of these documents are documents
18 between myself and other legal counsel on the team, and
19 they -- the problem is they involve strategy tactics. Some of
20 them are with the clients, but they're not about facts
21 involving the study, and I had no notion that there was a
22 study going on. I first learned about this a few months
23 later.

24 So they were -- none of the emails had anything to do
25 with the facts in dispute involving the suspension or

1 discipline of SJP. That's the first thing.

2 The second thing is we have gotten some documents in
3 discovery, and those documents are quite peculiar. Two of the
4 documents that we have gotten, we've only gotten a handful of
5 discovery which we asked for e-mails sent by the defendants
6 having to do with these incidents or emails that involved or
7 mentioned SJP sent by the defendants.

8 Two of the documents are emails between myself and
9 another lawyer and a legal team involving a case that's now
10 before the Supreme Court that I'm counsel on and has nothing
11 to do with Palestine, with SJP, with Pitt. How those were
12 produced to us suggests that there's something awry with the
13 defendant's searching of emails involving me.

14 Then the third thing I would just say is that for
15 40 years that I've been at Pitt, I've done numerous public
16 interest litigation, and I've won two distinguished faculty
17 awards in my public interest litigation. Pitt recognizes
18 this, that this is part of my professional responsibilities
19 and obligations or my duties, and I've never been questioned
20 whatsoever on emails, and the emails between me and legal
21 counsel on dozens of cases have never been the subject of
22 surveillance, to my knowledge, unless Pitt has been doing it
23 unbeknownst to me over these years.

24 So I doubt they're relevant. I doubt that they have
25 anything to do with the facts of this case, and I think they

1 raise core client-attorney and legal team privileges that I
2 don't understand really why they're making this a major issue.

3 THE COURT: Can I ask you, if you are comfortable
4 answering, I mean to me, is there not a conflict of interest
5 on your part?

6 I mean, I don't know if you are a full-time professor
7 at Pitt. Can you sort of represent this group against Pitt in
8 litigation, and I'm always sort of raising it, too, because I
9 don't want there to be a motion to disqualify here that's
10 raised, and I don't know if Pitt allows its professors to
11 engage in legal assistance to its students.

12 You are in a little bit of a unique situation here,
13 at least from where I'm sitting, and I don't know if there's a
14 situation where maybe it's not an issue, there's mutual, you
15 know, waivers here, but that to me is also maybe an ancillary
16 issue here, but an important one I guess.

17 MR. LOBEL: Thank you very much, Your Honor, for
18 raising that. I raised the same question and I was troubled
19 by that problem.

20 So I went to two people who I thought might have some
21 answers on it. I went to the dean of the law school, and I
22 asked him did he see a problem in this. And I asked our
23 ethics professor. I, by the way, am a full-time chair
24 professor. So it's not like this is a part-time gig that I
25 have.

1 THE COURT: Right.

2 MR. LOBEL: So, and I think it's a significant
3 problem. And I also raised it with the student -- you know,
4 with my co-counsel, and the ethics -- none of the people I
5 raised it with said it was an insurmountable or significant
6 problem, and that the students are aware, my clients are aware
7 that I work for Pitt.

8 Pitt does not put any restrictions -- has not put any
9 restrictions on me in terms of who I represent as a pro bono
10 matter. I'm not using my Pitt address. I shouldn't have used
11 my Pitt email. But on the court records, I created another
12 email for just that purpose.

13 So I think it's fair to raise that question, but I
14 thought I answered it to my satisfaction if it went ahead, but
15 if Your Honor feels differently, I would be happy to try to
16 brief it.

17 THE COURT: Yeah, I'm not sure it's really an issue
18 for me as opposed for you and I guess the university, and I
19 guess it becomes an issue for me if I receive a motion to
20 disqualify or something, then it becomes I think a matter for
21 me to address.

22 But if it's something that's lurking there, I don't
23 want a situation where I did get a motion to disqualify and it
24 would further upset the schedule here. So I thought I would
25 mention it while we're talking about the privilege issues.

1 MR. LOBEL: Thank you, Your Honor, for raising it.

2 THE COURT: Okay. The defense, any reaction to any
3 of that? Again, I think it started with me trying to come up
4 with a way through this issue if we can avoid getting into the
5 nitty gritty, and I don't know exactly if there is a way from
6 a review perspective to look at what's important for purposes
7 of this hearing and then try to table some of the more thorny
8 issues until we really need to address them.

9 MR. BILUS: Your Honor, I think it's a valiant
10 effort. I don't know how we could do a review for relevance
11 to the hearing in this situation, but I mean, I think
12 Professor Lobel has addressed some of the merits of the
13 privilege argument.

14 I'm not going to respond to all of those right now.
15 I think we need briefing on it, which is what we were talking
16 about doing. I do think it's a problem for him to use his
17 university email system -- account on the university's system
18 when representing clients against the university, and I think
19 he recognized that it was -- he just said he shouldn't have
20 used it and that he created a separate email for those
21 purposes.

22 So I do think there's an issue here. Whether it's
23 wrapped up in a conflict of interest issue, we haven't moved
24 to disqualify him. I don't know that we will or will not.
25 Right now we're just trying to get, you know, get the

1 documents that we think we need to defend our clients.

2 THE COURT: Can I ask you, do you have a sense as to
3 quantity of the documents? I mean, how many documents are we
4 talking about?

5 MR. BILUS: I do not know, Your Honor. I've tried to
6 avoid knowing too much about them. I know we have them.

7 MR. WALCZAK: There's a lot, Your Honor. I think
8 there's -- and I don't know whether anybody on my team has
9 gone back and counted how many emails there are, but there are
10 a lot of emails in sort of mid March, after the interim
11 suspension went in, which is when our activity picked up,
12 until probably for six weeks after that, and including just
13 really in-depth discussions of strategy, tactics. I'm sure
14 that addresses what we might perceive as vulnerability.

15 To the extent that counsel is able to access those
16 emails, it really is like, you know, somebody dropping off the
17 Eagles' playbook on Monday and the Steelers having all week to
18 check it out before playing their game on Sunday, you know,
19 and querying whether they need to, whether it's appropriate, I
20 certainly think it would give them an unfair advantage to have
21 access to those emails.

22 Jules, anything else you want to say?

23 THE COURT: Can I ask? So this is a little bit
24 unusual, right? So usually when you have someone invoking the
25 privilege, they have custody and control over the documents,

1 right, and then they log the documents on a privilege log. So
2 then it becomes a little bit easier for the other side to see
3 whether there's a challenge associated with that, and then it
4 also becomes easier for the court to decide the issue here.

5 There's a little bit concern, as we have been
6 talking, if I get these motions and briefing on this, I just
7 won't have enough information to really resolve -- I mean, I
8 could resolve it, I suppose, at the highest conceptual level
9 whether a -- whether these Pitt internal policies waive any
10 attorney-client privilege, but I'm not sure that might
11 necessarily resolve the dispute.

12 And so I'm wondering now, just thinking about it, is
13 there no -- would there be any objection, I suppose, to the
14 defense turning over that email account or that drive to the
15 plaintiffs and the plaintiffs creating a log, a basic
16 privilege log of those documents. You know, maybe like 99
17 percent of them are going to be privileged. Maybe there are
18 some that aren't. Maybe there's a lot that are non-responsive
19 as well. But at least then we'd have a log and we'd have an
20 understanding at a more granular document level as opposed to,
21 you know, this sort of esoteric level of whether or not
22 Mr. Lobel was -- how he was acting in the capacity at the
23 time.

24 Any thoughts or responses to that?

25 MR. BILUS: Your Honor, we have custody and control

1 of these documents. I think resolving the high-level question
2 of whether or not there's any privilege, whether it can be
3 there was a privilege at the outset and it's been waived or
4 whether there was no privilege at all because of the method of
5 communication, I think that would go a long way to resolving
6 the issue for the whole batch of documents.

7 We could then review them, just like we have the
8 other email accounts that we have reviewed, and produce what
9 is responsive to their requests and go forward. I don't know
10 that it needs to be a document-by-document decision when it
11 is -- when the issue is does the fact that we have custody and
12 control of these documents mean -- means that there's no
13 privilege here?

14 And there very well could be documents which if they
15 were originally in their hands would not be privileged, right,
16 maybe an email between Professor Lobel and some third party.

17 But here, as long as we deal with the high-level
18 question, we could then see, we could review them and produce
19 whatever is responsive.

20 THE COURT: I mean, I guess what happens if I find
21 that there is not a waiver of privilege here?

22 MR. BILUS: Good question. So we produce them -- we
23 would give them custody of the documents, and then they could
24 review and produce any non-privileged documents.

25 THE COURT: Okay. I just wonder then if we're at

1 step one, why don't I make that the first step I guess. Do
2 you have an objection to just disclosing them, I suppose, in
3 the first instance because they're in your custody and
4 control?

5 MR. WALCZAK: Wouldn't they then have to review them,
6 Your Honor? We have -- you know, we appreciate them
7 segregating it, but it is a little more complicated.

8 But for them to even segregate -- I mean, we really
9 don't want people reviewing those, certainly if the court is
10 going to rule that they don't have a right to do so.

11 I'm pretty sure we have -- Mr. Lobel should have that
12 on his drive. I'm pretty sure that the vast majority of those
13 emails would have cc'd the rest of the legal team or been to
14 the rest of the legal team. So there's the attorney work
15 product.

16 I think there's only a small number of emails likely
17 that were Mr. Lobel and the clients. Really most of this is
18 going to be work product, but I think a cataloging of our own
19 emails would disclose the emails that are at issue.

20 MR. LOBEL: Your Honor, I think a possible
21 alternative which would serve the same purpose is I would be
22 willing to go through all of the emails about this case and do
23 a declaration, which would give you an idea of the nature of
24 these -- you know, the categories of the emails that are
25 involved.

1 THE COURT: Okay. I think that would be helpful. I
2 think I do need more of an granular sense of the documents.
3 Maybe not, you know, document by document, and I'm resisting
4 the idea that the documents themselves be produced to me for
5 an in-camera review which, to begin with, if it sounds like
6 it's a voluminous number, I'm not going to have the time to do
7 it, but separately, I think if they do involve a lot of legal
8 strategy, I don't really want to see that as well.

9 So I do think it's helpful maybe as part of the
10 motion to have some kind of declaration to give a more
11 specific description, I suppose, of documents and categories
12 of documents. At least then we'll -- I think it probably
13 would be helpful, too, for the defense, both sides have a
14 better sense as to what we're talking about and I'll have a
15 better sense before I make a decision.

16 And then I guess I'll kind of wait and see, and if I
17 do feel like I need more information of the documents, I guess
18 I'll let you all know after I get the briefing.

19 Okay. Thank you. I appreciate it. All right. Is
20 there anything else that we should talk about while I have
21 everybody on the line? I think we're all set with respect to
22 the schedule here. Then hopefully that will be able to
23 resolve these issues.

24 One question, I suppose. If Pitt does reach a
25 decision on the -- with respect to the disciplinary hearing, I

1 suppose that could have a material impact here on the pending
2 motion here, I suppose, if they lift the suspension I guess.

3 MR. WALCZAK: If they lift the suspension, then we
4 don't need the preliminary injunction. We could probably
5 convert all this to summary judgment and really relax.

6 So I mean, but at this point, we certainly don't know
7 what the recommendation or what the result is going to be of
8 that.

9 THE COURT: Mr. Bilus, do you have a sense as to
10 timing I guess?

11 MR. BILUS: Not really, Your Honor. We've talked to
12 our client about that to get a sense, and I don't think they
13 have a certain date that they knew something was going to
14 happen or be decided by. I know that the hearing panel is
15 working on it. That's all I know.

16 THE COURT: Okay. So they're not waiting on this
17 case.

18 MR. BILUS: No, they're moving forward.

19 THE COURT: Okay. All right. Thank you. I
20 appreciate it.

21 Okay. So with that, anything anyone wants to raise
22 here? I'll get an order out and we can memorialize what we
23 talked about here with respect to the schedule, but anything
24 else?

25 MR. WALCZAK: I think, Your Honor, we're going to

1 need just a couple of other dates. So the statement of
2 undisputed facts. I mean, we had it two weeks before the
3 hearing initially. There's also -- Pitt is supposed to file
4 an opposition to the PI motion.

5 At this point we have not seen anything from the
6 university, and given that there's now more time, we would ask
7 whether Pitt could respond more than eight days before the
8 hearing.

9 And then the other date linked to the hearing is
10 prehearing statements which we had five days before the
11 hearing. So I think except for the PI -- except for the PI
12 response, you know, I think given the still constricted
13 schedule, I think all of those are going to have to be fairly
14 or at least the statement of facts and undisputed facts in the
15 prehearing statements are going to have to be pretty close to
16 the hearing date.

17 THE COURT: What if we had the prehearing statements
18 and the statement of facts due June 30th -- so that's the
19 Monday of the hearing week -- and then have Pitt's response to
20 the preliminary injunction motion be due June 20th? Does that
21 work for everybody?

22 MR. RICHARDS: Your Honor, I'm sorry. I'm just
23 trying to think through something and I think I'm not smart
24 enough to figure this out here. It's a little bit of a logic
25 game.

1 If we can agree on the joint statement of facts, then
2 we will know we don't need to have a hearing, right? I mean,
3 isn't that the way that this is going to work?

4 THE COURT: I suppose -- you mean an evidentiary
5 hearing?

6 MR. RICHARDS: Correct.

7 THE COURT: Yeah, I would think so. That's a good
8 point. So are you suggesting a --

9 MR. RICHARDS: I'm not sure what I'm suggesting. I
10 think that that's important, but I'm not sure why.

11 MR. WALCZAK: So I think Mr. Richards is right, but
12 based on what Mr. Bilus said before and based on what we're
13 seeing now, I am also more skeptical that we're going to be
14 able to agree on all of the facts.

15 MR. BILUS: I wouldn't be surprised if we have a
16 statement of undisputed facts but also some disputed facts,
17 right?

18 MR. WALCZAK: Yes. So I think we'll be able to
19 narrow what we have to present evidence on, but I don't think
20 we're going to be able to avoid that completely -- just a
21 sneaking suspicion.

22 THE COURT: Okay.

23 MR. BILUS: As far as our opposition goes, I'm not
24 sure why we would need to file it by the 20th given that we're
25 going to be doing hopefully the depositions, I'd like to be

1 able to have those done before we have to do that brief.

2 Could it not be due on -- at the same time as the
3 statement of undisputed facts? We can then work in the
4 undisputed facts into our brief.

5 THE COURT: Okay. I'm fine with that.

6 Mr. Walczak, on your end?

7 MR. WALCZAK: Just -- you know, I mean, ordinarily
8 there would be some response I think filed and giving us a bit
9 of a preview on what their defenses are going to be here.

10 So I think giving us a little bit more time than I
11 mean June 30th, that gives us like five or six days. That's
12 even less than we were going to have now. Right now we're
13 going to have eight days.

14 THE COURT: How about a week prior, so June 26th, and
15 then the defense, instead of a -- if you want to do a response
16 or have a prehearing brief, I suppose, be your response, then
17 that will give everybody -- the plaintiff at least a week,
18 give me a week with everything?

19 MR. BILUS: We can make that work.

20 THE COURT: Okay. So I'll modify it. So the
21 prehearing brief, the defendants' response to the extent it's
22 already incorporated in the prehearing brief, and then the
23 statement of -- joint statement of facts all be due June 26th,
24 which would be a week prior to the July 3rd hearing. Okay.

25 MR. RICHARDS: Your Honor, I figured out why the

1 joint statement was bugging me. If Mr. Walczak is right and
2 we have significant disputed facts, then we're not going to
3 have the hearing, right, that week. We are going to be
4 pushing it out until the witnesses can attend.

5 So I think what I'm suggesting is that maybe the
6 parties will meet and confer again with respect to dates and
7 maybe that will alleviate a little bit of this compression if
8 we're not going to be going forward with the hearing on the
9 30th -- I'm sorry, the 3rd.

10 THE COURT: Okay. I think it's a good idea. I mean,
11 if there's a mutual agreement based on your meet and confer
12 and what the joint -- and the joint statement of facts looks
13 like, it's going to be somewhat pointless to have the hearing
14 on July 3rd, then I agree, I think it makes sense to confer on
15 that and let everybody know and let me know, and then we can
16 look at an alternative date.

17 If it turns out that there are disputes, some
18 disputes of fact and a lot of agreement on other facts, then
19 maybe we can at that point play it by ear and see if we can
20 still proceed on July 3rd.

21 Okay. All right. Thank you. Anything else from the
22 defendants? Mr. Bilus, anything else on your end?

23 MR. BILUS: Nothing, Your Honor. Thank you.

24 THE COURT: Okay. Thank you, everyone. I appreciate
25 it. I will get a scheduling order out memorializing what we

1 talked about and then we'll plan on seeing everybody July 3rd,
2 unless something changes between now and then. All right.
3 Take care. Thank you.

4 MR. BILUS: Thank you, Your Honor.

5 MR. WALCZAK: Thank you, Your Honor.

6 (The hearing concluded at 2:56 p.m.)

7 C E R T I F I C A T E

8 I, VERONICA R. TRETTEL, RMR, CRR, certify that
9 the foregoing is a correct transcript from the record of
10 proceedings in the above-entitled case.

11 \s\ Veronica R. Trettel
12 VERONICA R. TRETTEL, RMR, CRR
13 Official Court Reporter

05/29/2025
Date of Certification